

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TEXAS

BEAUMONT DIVISION

ARTHUR STRINGER

§

VS.

§

CIVIL ACTION NO. 1:11cv704

WARDEN MARTIN

§

MEMORANDUM ORDER OVERRULING PETITIONER'S OBJECTIONS AND
ADOPTING THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

Petitioner Arthur Stringer, an inmate confined at the Federal Correctional Complex in Beaumont, Texas, proceeding *pro se*, brought this petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241.

The court referred this matter to the Honorable Zack Hawthorn, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court. The Magistrate Judge recommends the petition be dismissed.

The court has received and considered the Report and Recommendation of United States Magistrate Judge filed pursuant to such order, along with the record and pleadings. Petitioner filed objections to the Magistrate Judge's Report and Recommendation. This requires a *de novo* review of the objections in relation to the pleadings and the applicable law. *See* FED. R. CIV. P. 72(b).

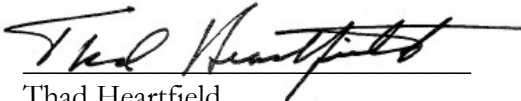
After careful consideration, the court concludes petitioner's objections should be overruled. Petitioner's petition fails to cite any facts to support his allegation that exhaustion would be futile. Exhaustion of administrative remedies would not be futile in this instance because the Bureau of Prisons considers individual requests for RRC placements in excess of six months and petitioner is not definitively prevented from placement in an RRC. *See Garza v. Davis*, 596 F.3d 1198, 1204-05

(10th Cir. 2010) (finding that the BOP memoranda implementing the Second Chance Act indicate the BOP recognizes its authority to place inmates in an RRC for in excess of six months and “do not reflect any policy of categorical denial”); *see also Ciocchetti v. Wiley*, 2009 WL 4918253 (10th Cir. Dec. 22, 2009) (unpublished); *Rivkin v. Tamez*, 2009 WL 3489428 (5th Cir. Oct. 29, 2009) (unpublished) (affirming the dismissal of a claim concerning RRC placement for failure to exhaust administrative remedies). Thus, the petition should be dismissed without prejudice.

ORDER

Accordingly, petitioner’s objections are **OVERRULED**. The findings of fact and conclusions of law of the Magistrate Judge are correct and the report of the Magistrate Judge is **ADOPTED**. A final judgment will be entered in this case in accordance with the Magistrate Judge’s recommendations.

SIGNED this the **18** day of **October, 2012**.


Thad Heartfield
United States District Judge